

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

ORDER

01 CR 586 (RJD)

SHERON PRINCE,

Defendant.

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DEARIE, Chief Judge.

Defendant Sheron Prince moves for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). For the reasons stated herein the motion is denied.

On December 18, 2001, defendant pled guilty to one count of a three-count indictment charging him with intent to distribute 50 grams or more of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(iii). According to the guidelines applicable at the time, defendant's imprisonment range was 108 to 135 months. The Court sentenced Prince to a term of 120 months imprisonment followed by five years of supervised release, the statutory mandatory minimum penalty, pursuant to § 841(b)(1)(A)(iii).

Prince contends that he is eligible for re-sentencing under the retroactive application of the United States Sentencing Commission's recent amendment to the crack cocaine sentencing guidelines, 72 Fed.Reg. 28571-72 (2007). However, because the defendant was sentenced to the *statutory* mandatory minimum term of incarceration, see 21 U.S.C. § 841(b)(1)(A)(iii), he does not qualify for relief under § 3582(c)(2). See U.S. v. Campbell, No. 03 CR 537, 2008 WL 1957773 (E.D.N.Y. May 5, 2008); Unites States v. Ortiz, No. 04 Cr. 268, 2008 WL 709488 (S.D.N.Y. March 17, 2008); U.S. v. Herndon, No. 3:95CR00066, 2008 WL 723780 (W.D.Va.

March 13, 2008); United States v. Howell, Criminal Action No. 2:06-00027-01, 2008 WL 687112 (S.D.W.Va. March 12, 2008); U.S. v. Draughon, No. 2:01-cr-94-2, 2008 WL 320775 (S.D.Ohio Feb. 4, 2008); United States v. Quarles, No. 98-40044-01, 2008 WL 161686 (D. Kansas Jan. 16, 2008).

SO ORDERED.

Dated: Brooklyn, New York
December 9, 2008

s/ Judge Raymond J. Dearie

RAYMOND J. DEARIE
United States District Judge